

REPORT RELATING TO THE INTERDICTION OF
AIRCRAFT ENGAGED IN ILLICIT DRUG TRAFFICKING

COMMUNICATION

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

A REPORT INCLUDING MATTERS RELATING TO THE INTERDICTION OF AIRCRAFT ENGAGED IN ILLICIT DRUG TRAFFICKING, PURSUANT TO 22 U.S.C. 2291-4



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THE WHITE HOUSE,
Washington, February 22, 2006.

Hon. J. DENNIS HASTERT,
*Speaker of the House of Representatives,
Washington, DC.*

DEAR MR. SPEAKER: Consistent with the authorities relating to official immunity in the interdiction of aircraft engaged in illicit drug trafficking (Public Law 107-108, 22 U.S.C. 2291-4), and in order to keep the Congress fully informed, I am providing a report prepared by my Administration. This report addresses the matter of assistance for interdiction of aircraft engaged in illicit drug trafficking.

Sincerely,

GEORGE W. BUSH.

UNITED STATES ASSISTANCE FOR THE INTERDICTION OF AIRCRAFT
ENGAGED IN ILLICIT DRUG TRAFFICKING

Colombia and Brazil are the only countries for which the President made a certification under 22 U.S.C. § 2291–4 in calendar year 2005. The President signed Presidential Determination 2005–32 on August 17, 2005, for Colombia and Presidential Determination 2006–02 on October 16, 2005, for Brazil. In doing so, the President certified that (1) interdiction of aircraft reasonably suspected to be primarily engaged in illicit drug trafficking in Colombia's and Brazil's airspace is necessary because of the extraordinary threat posed by illicit drug trafficking to the national security of Colombia and Brazil; and (2) Colombia and Brazil have appropriate procedures in place to protect against innocent loss of life in the air and on the ground in connection with such interdiction, which shall at a minimum include effective means to identify and warn an aircraft before the use of force is directed against the aircraft.

COLOMBIA

(A) On August 21, 2003, the Airbridge Denial (ABD) Program in Colombia began operations. In making a third certification for Colombia in August 2005, the President determined that narcotrafficking continued to pose an extraordinary threat to Colombia's national security on the basis of several factors, including: Colombia is still the world's largest producer of cocaine and a supplier of high quality heroin; Colombia faces a growing cocaine abuse problem; Colombian drug trafficking officials suborn Colombian officials and pay illegal armed groups to protect their organizations; illegal revenue from the Colombian drug trade disrupts the licit Colombian economy; and narcotrafficking presents a corrosive threat to the democratic institutions of government and law enforcement. Significantly, drug trafficking also serves as the primary source of funding for the Revolutionary Armed Forces of Colombia (FARC) and an important source of funding for the Colombian United Self-Defense Forces (AUC) and the Colombian National Liberation Army (ELN), all of which are classified as Foreign Terrorist Organizations by the Department of State.

As is indicated in section (D) below, the Government of Colombia (GOC) observed over 250 unidentified flights in its airspace in CY 2005. Although this number is approximately half the number of flights observed in CY 2005, the concerns raised in the President's determination for Colombia in previous reports are still valid and applicable.

(B) United States Government safety oversight of Colombia's ABD program includes approved procedures, as outlined in a Bilateral Letter of Agreement signed April 28, 2003; a safety checklist; and three primary United States Government safety monitors: a ground safety monitor (GSM), an air safety monitor (ASM), and a

Joint Interagency Task Force—South (JIATF-S) ABD watch officer. These three safety monitors are known as the ABD safety triad. All three entities in the safety triad must be involved in all events in which Phase I, II, and III actions (as described below) are taken against an unidentified, assumed suspect (UAS) flight in the air. The basic procedures for intercepting a UAS flight are as follows:

Detection, Sorting, and Identification. When the GOC detects or is informed of an aircraft operating in a defined zone of control that is a candidate for possible ABD action (a “track of interest”), information on that aircraft shall be gathered by the GOC from all reasonably available sources, including radar systems, radio and visual contact with the aircraft, electronic systems (which help determine whether the plane is traveling on a filed flight plan and what type of plane it is), and relevant air traffic control centers, to begin to determine whether the aircraft is reasonably suspected to be primarily engaged in illicit drug trafficking. That determination shall be made by the Battle Command Officer (BCO) in the Colombian Air Force’s Command and Control Center, based upon certain factors set out elsewhere in the Agreement, in conjunction with other information provided to GOC and United States Government participants in the ongoing action.

Monitoring. If the GOC determines or has preliminary reasons to believe that an aircraft is primarily engaged in illicit drug trafficking, that aircraft shall be tracked and monitored. If tracking is intermittent, positive re-identification shall be made with reasonable certainty before the ABD event may continue. If the GOC has been unable to identify the track of interest as a legitimate track, the aircraft shall be considered suspect by the Colombian Air Force (CAF) under CAF procedures and may be intercepted.

Phase I—Interception. The interception phase (Phase I) includes attempts to contact the intercepted aircraft by radio and, if necessary, by visual signals in order to determine the identity of the pilot or intercepted aircraft. If, during this Phase, the GOC determines that the aircraft is reasonably suspected to be primarily engaged in illicit drug trafficking (on the basis of several considered factors), the CAF may order the intercepted aircraft to land at a designated place suitable for a safe landing. If, after being intercepted, the aircraft does not comply with the procedures and instructions given by the CAF, the pilot may request permission to proceed to Phase II.

Phase II—Use of Warning Shots. Phase II consists of the firing of warning shots, using ammunition containing tracer rounds, in order to demonstrate to the pilot of the intercepted aircraft that he must comply with the interceptor’s order. If all of the procedures required under the Agreement have been followed, if the information gathered continues to indicate that an aircraft is suspect, and if the aircraft fails to respond to the interceptor’s order to land, the GOC may, in accordance with the following, move to Phase III.

Phase III—Firing of Weapons at Intercepted Aircraft in the Air. If, after warning shots are fired under Phase II, the inter-

cepted aircraft does not acknowledge or follow the interceptor's directions, the Colombian interceptor aircraft may only fire weapons at the intercepted aircraft if he requests and receives permission to do so (Phase III). The Commander of the Colombian Air Force (COCAF) must review all such requests. The COCAF may approve such request after verifying that all procedures required under the Agreement have been followed. Upon receipt of the authorization, the interceptor aircraft shall warn the intercepted aircraft, using ICAO radio communications procedures and the appropriate frequencies, that it will be fired upon if it refuses to comply.

The interceptor shall use reasonable force to disable the intercepted aircraft, starting with a minimum level of fire in an attempt to persuade the intercepted aircraft to land as directed. The intercepted aircraft shall be given a reasonable opportunity to obey the previously issued orders to land before the interceptor uses additional force. Levels of force may be increased if the intercepted aircraft continues to refuse to follow the interceptor's directions. It is acknowledged that even the minimum level of force could result in loss of life. If the intercepted aircraft has landed or been shot down, the interceptor aircraft or tracker aircraft shall give immediate notice to the Colombian Air Force Command and Control Center of the location of the intercepted aircraft.

The Agreement requires similar identification and warning procedures when a suspected narcotrafficking aircraft has been located on the ground. Further, the Agreement contains additional strictures on the use of force, including a prohibition on the use of force against state or commercial aircraft, aircraft that have been filed and are not significantly deviating from a flight plan, aircraft whose pilots appear to be incapacitated, and aircraft whose pilots genuinely appear to be under duress.

The United States Government initially trained the GOC's pilots and sensor operators to operate the Citation aircraft involved in the program. Pilot and crew refresher training as well as training of new Colombian personnel are ongoing as the program matures. Semiannual reviews of the program address any issues that arise in the program's implementation. Further, the United States Government receives weekly and monthly reports on program events.

(C) United States Government assistance to the ABD Program in Colombia consists of the following:

The United States Government provides a number of positions to Colombia's ABD program. These positions include a DOD JIATF-S Tactical Commander and Command Duty Officer; a Ground Safety Monitor in the Colombia Air Force Command and Control Center (CAFCCC); Air Safety Monitors on board GOC tracking aircraft; and a Host Nation Rider Assistant on board U.S. tracking and detection/monitoring aircraft. Both Monitors and the Host Nation Rider Assistant are fluent in Spanish.

JIATF-S, as Tactical Commander, exercises command and control of U.S. ABD assets through JIATF-S's Joint Operations Center (JOC). The JIATF-S Command Duty Officer is the Tactical Commander's senior watch officer at the JOC. The Ground Safety Monitor is the U.S. representative at the CAFCCC during ABD operations. The Air Safety Monitor is the U.S. representative on GOC

tracking aircraft and is available to observe decisions made by GOC personnel, communicate with the U.S. Ground Safety Monitor and the JIATF-S Command Duty Officer, and report to them whether the agreed-upon procedures are being followed. The Host Nation Rider Assistant is a U.S. representative who assists the Host Nation Rider. The Counter Drug Operation and Coordination Center, which is located in the CAFCCC, assists in coordination, information exchange, and analysis between JIATF-S and CAFCCC. An employee of the Narcotics Affairs Section in the U.S. Embassy in Bogotá is devoted exclusively to overseeing implementation of this program.

The United States Government has provided five Citation aircraft to the GOC on a no-cost loan basis for use in the ABD program and provides ongoing radar information and intelligence. Additional United States Government assets (both aircraft and personnel) from the Departments of Defense and Homeland Security can provide support for this program under the conditions contained in the Agreement. Further, the GOC has agreed that the five United States Government-supported ground-based radars and the Peace Panorama System (which is the airspace management system linking ground-based radars in Colombia to a central radar picture) constitute United States Government support for ABD.

(D) From January 1, 2005, until December 31, 2005, the GOC, with the assistance of the United States Government as described in section (C), identified over 250 Unidentified Assumed Suspect (UAS) flights within Colombian airspace. Over 27 of these flights were determined to be legal flights. The GOC was in a position to act upon approximately 200 of the remaining flights. The GOC forced four suspect drug trafficking aircraft to land, destroyed two of those aircraft on the ground, impounded five aircraft in Colombia, arrested six persons, and seized 1.5 metric tons of cocaine in connection with illegal aerial drug trafficking. Another three aircraft with 2.1 metric tons of cocaine were impounded in Guatemala as a result of Colombian coordination with JIATF-S and Honduran authorities on flights departing Colombian airspace heading toward Mexico. The United States Government is unaware of any deaths or injuries resulting from these actions.

BRAZIL

(A) Brazil's ABD program began operations on October 17, 2004. In making a second certification for Brazil pursuant to 22 U.S.C. § 2291–4, the President determined that narcotrafficking poses an extraordinary threat to Brazil's national security. Aerial drug shipments are a key component of this threat, as demonstrated by radar surveillance confirming that narcotraffickers are making widespread use of aerial routes to bring cocaine and other narcotics into Brazil. The amount of cocaine shipped through Brazil has increased over the last decade. It is estimated that well over 100 metric tons of cocaine enter Brazil annually, with one-third to one-half of it remaining in-country. In addition, there are suspected ties between drug traffickers and those involved in illegal arms trafficking. The resulting domestic drug trade has fueled widespread urban violence in Brazil, notably in São Paulo and Rio de Janeiro,

as organized criminal gangs fight to control a share of the lucrative enterprise.

(B) The Government of Brazil (GOB) possesses an infrastructure that is capable of independently implementing its aerial interdiction program. The goal of Brazil's interdiction program is to facilitate the safe landing of intercepted aircraft so that law enforcement personnel may take control of the aircraft on the ground. As a last resort, however, the Brazilian Air Force Commander may authorize the use of lethal force to bring down the aircraft if it refuses to respond to the full range of program actions taken by the Brazilian Air Force. The GOB has established a multi-stage procedure to identify, intercept, warn, and, if necessary, take action against an aircraft reasonably suspected to be primarily engaged in illicit drug trafficking. The basic procedures are as follows:

Identification. When the GOB detects an aircraft that displays irregular air traffic traits, it will consider that aircraft to be "unidentified" and a candidate for possible aerial interception. The GOB will proceed to gather information on that aircraft to determine whether the aircraft is reasonably suspected to be primarily engaged in illicit drug trafficking. If the GOB is unable to identify the aircraft as legitimate, the aircraft will be considered "suspect" by the Brazilian Air Force and may be intercepted.

Interception. During interception, the GOB will attempt to determine with greater certainty the identity of the intercepted aircraft. The tracker or interceptor aircraft will take all reasonable measures to identify the intercepted aircraft by visual or electronic observation of the nationality markings, registration number, license number, or identifying features of the intercepted aircraft. The GOB will further attempt to gather information regarding the intercepted aircraft that may help determine whether the intercepted aircraft is reasonably suspected to be primarily engaged in illicit drug trafficking. The tracker or interceptor aircraft will attempt to establish communications with the intercepted aircraft through radio communications or visual signals and order the intercepted aircraft to change its routing or to land if factors continue to support a determination that the aircraft is primarily engaged in illicit drug trafficking.

Warning Shots. The GOB will move to the firing of warning shots to demonstrate to the pilot of the intercepted aircraft that he must comply with the interceptor's order if the gathered information continues to indicate that an aircraft is suspect and the aircraft fails to respond to the interceptor's order to land. Warning shots may only be ordered and authorized by the Airspace Defense Senior Authority or the Air Operations Commander after verification that all requisite procedures have been satisfied. The intercepting aircraft will fire the warning shots from a position that will permit the intercepted aircraft to see the intercepting aircraft, but that will avoid damage to the intercepted aircraft. Intercepted aircraft that comply with the orders of the interceptor aircraft after warning shots have been fired will be escorted to land at a designated

airfield where law enforcement authorities will subject it to ground control measures.

Firing of Weapons at Intercepted Aircraft in the Air. If, after warning shots are fired, the intercepted aircraft does not acknowledge or follow the interceptor's directions, the aircraft will be designated as "hostile" and will, after appropriate authorization from Brazilian authorities, be subject to being shot down. The Brazilian Air Force Commander-in-Chief may only authorize the use of lethal force after verifying that all requisite procedures have been followed. The first burst of fire used against the intercepted aircraft will be as brief as possible and preferably without using ammunition capable of causing a tank explosion. After the first burst of fire, the pilot of the intercepting aircraft will relay information regarding the effect of the fire to the Air Force Commander-in-Chief and try to contact the intercepted aircraft again, if possible, before requesting authorization to fire again. Once an intercepted aircraft lands, the Brazilian federal police will attempt to take control of the aircraft for law enforcement purposes.

(C) Brazil's interdiction program differs from Colombia's in that Brazil independently administers its program. The GOB is solely responsible for all actions relating to each aerial interdiction event, but has agreed to share pertinent operational information about such events after the fact with the United States in a timely and transparent manner. Although the GOB neither requires nor has requested a direct U.S. role in support of its program, various agencies of the United States Government currently provide assistance to Brazil that could be relevant to the Brazilian interdiction program, such as cooperative law enforcement programs, intelligence-sharing, and approvals of military sales. Additionally, U.S. companies such as Raytheon are positioned to provide relevant assistance in the future.

(D) Brazilian authorities publicly claim that the combined resources of the System for the Vigilance of the Amazon (SIVAM) monitoring system and the Air Force have virtually eliminated trafficker flights through national airspace. They explain that the continued flow of drugs and weapons through Brazil is due to smugglers responding to the aerial interdiction deterrent by converting to overland routes. While Brazil's ABD program appears to have caused some traffickers to change their routes and methods of transshipment, airborne drug trafficking remains a viable threat.

U.S. interaction with Brazil on aerial interdiction issues has focused primarily on the role of the Brazilian Air Force. The United States Government is unaware of any incidents in which the Air Force used lethal force against aircraft under Brazil's interdiction program or any deaths or injuries resulted from action related to this program. However, in April 2005, the Brazilian police fired on a civil aircraft, suspected of narcotrafficking, as it attempted to take off, resulting in the death of the pilot. The GOB reported that the police were acting in self-defense. In response to United States government questions regarding the incident, the GOB further indicated that the police: (1) are permitted to use force against civil aircraft only in self-defense; (2) have been informed of their role in

pursuit of aircraft suspected of narcotrafficking and of procedures to be adopted to minimize loss of innocent life; and (3) are aware of the prohibition of the destruction of civil aircraft in service, established in the Convention on Suppression of Illegal Acts Against the Security of Civil Aviation, signed in Montreal on September 23, 1971.

The GOB has shared its official statistics for the operation of its interdiction program between January and September 2005 with the United States Government on the condition that the information is treated confidentially. This data is not included in this report, but can be made available upon request to Members and staff. The U.S. Embassy in Brasilia is also seeking the operational statistics for the remainder of 2005 from the GOB and will make that information available upon request as well.

